

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

Dokdink Sayasack,

Petitioner,

v.

Jeri Boe,

Respondent.

Case No. 3:18-cv-05315-RBL-TLF

REPORT AND RECOMMENDATION
DENYING PLAINTIFF'S APPLICATION
TO PROCEED *IN FORMA PAUPERIS*

Noted for May 14, 2018

This case has been referred to Magistrate Judge Theresa L. Fricke pursuant to 28 U.S.C. § 636(b)(1) and Local Rule MJR 3 and 4. This matter comes before the Court on plaintiff's filing of an application to proceed *in forma pauperis*. Because plaintiff's application indicates he has sufficient income with which to pay the \$5.00 filing fee, the undersigned recommends that the Court deny the application.

DISCUSSION

The district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. 28 U.S.C. § 1915(a). However, the Court has broad discretion in denying an application to proceed *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963).

By requesting the court to proceed *in forma pauperis*, plaintiff is asking the government to incur the filing fee because he allegedly is unable to afford the costs necessary to proceed with his cause of action.

1 Petitioner's application reflects that as of April 18, 2018, he had average monthly receipts
2 of \$142.14 and an average spendable balance of \$93.58. Dkt. 1, p. 3. Petitioner also states that he
3 receives \$34.00 per month from his employment at the Clallam Bay Corrections Center. The
4 undersigned recognizes that the funds to which Petitioner has access may not be great. However,
5 given the fact that a prisoner's basic needs are provided for while he is incarcerated and the
6 minimal filing fee required to proceed with this action is \$5.00, it is not unreasonable to expect
7 Petitioner to pay that fee from those funds.
8

9 CONCLUSION

10 Because it is reasonable for plaintiff to incur the costs to proceed with this cause of
11 action, the undersigned recommends that the court deny his application to proceed *in forma*
12 *pauperis*. Accordingly, the undersigned also recommends that the Court order plaintiff to pay the
13 required filing fee **within thirty (30) days** of the Court's order.
14

15 The parties have **fourteen (14) days** from service of this Report and Recommendation to
16 file written objections thereto. 28 U.S.C. § 636(b)(1); Federal Rule of Civil Procedure (FRCP)
17 72(b); *see also* FRC P 6. Failure to file objections will result in a waiver of those objections for
18 purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the time limit imposed
19 by Fed. R. Civ. P. 72(b), the Clerk is directed set this matter for consideration on **May 14, 2018**,
20 as noted in the caption.
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22 DATED this 30th day of April, 2018.

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24 Theresa L. Fricke
25 United States Magistrate Judge
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ORDER - 3